

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**TRENT WARREN,  
#Y20422,**

**Plaintiff,**

**v.**

**WARDEN BROOKHEART, et al.,**

**Defendants.**

**Case No. 20-cv-00548-MAB**

**MEMORANDUM AND ORDER**

**BEATTY, Magistrate Judge:**

This matter is before the Court on the Motion for Judgment Default against Defendant Kirkwood filed by Plaintiff Warren (Doc. 50). Defendant Officer Kirkwood was issued summons on Plaintiff's Complaint on June 3, 2021 (Doc. 43). Defendant Kirkwood was successfully served on August 16, 2021, and his Answer was due September 7, 2021 (Doc. 49). As of this date, Defendant Kirkwood has failed to move, answer, or otherwise plead in response to the Complaint.

Plaintiff's motion for default judgment against Defendant Kirkwood is **DENIED**. His request is premature, as an entry of default has not yet been entered. The Federal Rules of Civil Procedure provide that the Clerk of Court must first enter default against a defendant who has failed to plead or otherwise defend. FED. R. CIV. P. 55(a). Accordingly, the Court **ORDERS** as follows:

- (1) The Clerk of Court is **DIRECTED** to **ENTER DEFAULT** against Defendant Officer Kirkwood in accordance with Federal Rule of Civil Procedure 55(a).
- (2) Plaintiff is **ORDERED** to move for default judgment against Defendant

Officer Kirkwood on or before **October 27, 2021**, in accordance with Federal Rule of Civil Procedure 55(b).

- (3) If Plaintiff fails to move for default judgment as set forth in this Order, this entire action will be dismissed as to Defendant Officer Kirkwood for failure to prosecute and/or failure to comply with an order of the Court.
- (4) The Clerk of Court is **DIRECTED** to transmit a copy of this Order and the entry of default to Plaintiff and to Defendant Kirkwood.

**IT IS SO ORDERED.**

**DATED: October 6, 2021**

/s/ Mark A. Beatty  
**MARK A. BEATTY**  
**United States Magistrate Judge**